

Eden District Council

**Planning Committee
19 March 2020**

Appeal Decision Letters

**Report of the Assistant Director Planning
and Economic Development**

Attached for Members' information is a list of Decision Letters received since the last meeting:

Application Number(s)	Applicant	Appeal Decision
19/0219	<p>Mr Metcalfe Land adjacent to Hillside, Ruckcroft, Carlisle CA4 9QR</p> <p>The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.</p> <p>The development proposed is described as 'outline consent for a single dwelling'.</p>	<p>The appeal is allowed and planning permission granted, subject to conditions.</p>

Oliver Shimell
Assistant Director Planning and Economic Development



Appeal Decision

Site visit made on 14 January 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/H0928/W/19/3239768

Land adjacent to Hillside, Ruckcroft, Carlisle CA4 9QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Metcalfe against the decision of Eden District Council.
 - The application Ref 19/0219, dated 21 March 2019, was refused by notice dated 22 May 2019.
 - **The development proposed is described as 'outline consent for a single dwelling'.**
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling at land adjacent to Hillside, Ruckcroft, Carlisle CA4 9QR, in accordance with the terms of the application, Ref 19/0219, dated 21 March 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. I have made a minor revision to the description of development in my formal decision **to omit the words 'outline consent for' and replaced them with 'erection of' as the former does not describe an act of development.**
3. The application was submitted in outline with all matters reserved for future consideration. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative, and only in so far as establishing whether it would be possible, in principle, to develop the site for a single dwelling.

Main Issues

4. The main issues are:
 - Whether the site is a suitable location for residential development, having regard to the local development strategy for the area, and;
 - The effect of the proposal on the character and appearance of the area, and that of the surrounding landscape.

Reasons

Suitability of the location

5. The appeal site is part of an agricultural field on the edge of the small village of Ruckcroft, immediately adjacent to Hillside Cottage and fronting the highway. The site is largely rectangular in shape with the land steadily rising from southwest to northeast, reflecting the general topography of the surrounding

- area. The proposal would see the development of a single dwelling within the site.
6. Policy LS1 of the Eden Local Plan 2014-2032 (the **ELP**) **sets out the Council's** locational strategy for the distribution of development across the district. It sets out a hierarchical approach to development and advises that within smaller villages and hamlets, such as Ruckcroft, development will be restricted to: infill sites, which fill a modest gap between existing buildings within the settlement; rounding off, which provides a modest extension beyond the limit of the settlement to a logical, defensible boundary, and; the reuse of traditional rural buildings and structures. This approach is also set out by ELP policy HS2 which in addition seeks to restrict the size of dwellings at these locations and, in the case of greenfield sites, requires a local occupancy restriction.
 7. The proposal would not fill a gap between existing buildings within the settlement. It cannot, therefore, be considered as infill development in the context of ELP policies LS1 and HS2.
 8. **In terms of 'rounding off', the ELP does not offer a conclusive definition as to what is meant by a 'logical, defensible boundary'.** In its statement and in its draft Housing Supplementary Planning Document (the draft SPD), the Council suggest that *"a defensible boundary is a longstanding feature such as, but not limited to, a road, wood, river, railway line or a significant rise or fall in topography, which **would prevent further extension of development**"* (my emphasis). I have also been provided with two appeal decisions¹ which support this view, one of which is a recent decision of my own.
 9. This definition continues to be a useful guide, yet I do not consider this to be a fixed or closed list, as to do so would be an overly prescriptive interpretation of the policy requirement. In forming this view I have been mindful of the supporting text to policy LS1, in relation to rounding off, which states *"... This approach will consider proposals on a case by case basis, based on their individual merits, and against other policies of relevance within the Local Plan, and is considered preferable to a prescriptive approach particularly given the **diversity of the Smaller Villages and Hamlets within the District**"* (ELP paragraph 3.1.5).
 10. The proposal would extend the built form of the village into the adjacent countryside. However, this would be a modest extension with the site being of a similar size to that of other residential plots within the village. Its north-western boundary would be well-defined by a mature hedgerow that forms the existing field boundary and contains a handful of mature and semi-mature trees. In this context, the existing longstanding field boundary represents a landscape feature that would offer a logical and defensible boundary that would contain the development and prevent any further incursion into the surrounding countryside. Thus, the proposal would amount to a modest rounding off of the settlement.
 11. I appreciate there is no physical boundary to the northeast of the site, which borders open agricultural land, but I note that the land rises steeply beyond the site to the northeast and therefore this would hinder the ability to develop beyond this point. In any case, policy LS1 does not require development to be enclosed on all sides by defensible boundaries but simply allows for **"a modest**

¹ Appeal Ref. APP/H0928/W/18/3194233 and APP/H0928/W/18/3215922

extension beyond the limit of the settlement to a logical, defensible boundary” (my emphasis).

12. Taking the above points together, I find that the proposal would represent a modest rounding off of the settlement. It follows, therefore, that the site is a suitable location for residential development, having regard to the local development strategy for the area. Accordingly, subject to a local occupancy condition, the proposal would be compliant with ELP policies LS1 and HS2, the provisions of which are set out above.

Character and appearance

13. Ruckcroft is a small linear settlement perched on the eastern slopes of the Eden Valley, with properties predominantly fronting the highway. Dwellings vary in both design and scale, with a mix of traditional stone buildings and modern contemporary houses. Development is occasionally interrupted by stretches of unbuilt frontage which provide an open and spacious character to the village, emphasising its intrinsic rural character. The surrounding landscape is characterised by rolling countryside intersected by a mix of hedgerows and drystone walls.
14. The indicative site plan shows a dwelling positioned to the side of Hillside Cottage, with its footprint extending beyond the rear elevation of this neighbouring dwelling. The rear boundary of the plot would be in line with that of the rear boundary of Hillside Cottage. As such, a dwelling at this location would relate well to the existing built form, continuing the linear pattern of development along the road. I acknowledge the concerns relating to the positioning of the proposed dwelling beyond the rear of Hillside Cottage. However, this is indicative only at this stage and I see no reason why this matter could not be adequately addressed at the reserved matters stage to ensure that the dwelling is more closely aligned with the neighbouring built form. Given the shape of the site a slight step back from the roadside is to be expected but this would not be markedly out of character with the surrounding built form.
15. The dwelling would have a shorter roadside frontage than other properties in the village due to the position of the side garden of Hillside Cottage, which shares part of the **site's** roadside frontage. However, this merely emphasises the historic character and evolution of the settlement and would not be markedly out of step with the existing street scene.
16. The site currently contributes to a large stretch of undeveloped frontage within the village. However, I have found that the proposal would be a modest extension of the village that would round off the settlement to an existing field boundary that would contain the development. In doing so, it would not interrupt the existing pattern of field boundaries nor, given the limited size of the site, would it amount to a significant intrusion into the adjacent countryside. Therefore, the proposal would not result in a significant erosion of the rural character of the settlement or its landscape setting.
17. I have had regard to the previous appeal decision² for housing development on the site, where the Inspector found that a dwelling at this location would adversely affect the character and amenity of this part of the settlement. However, this decision is almost 20 years old and since then the local and

² Appeal Ref: T/APP/H0928/A/00/1038033

national policy context has changed substantially. As such, this previous decision is afforded little weight in my determination. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me and in light of current planning policy provisions.

18. Consequently, the proposed development would not harm the character and appearance of the area, or that of the surrounding landscape. Therefore, I find no conflict with policies DEV5 and ENV2 of the ELP or the associated provisions of the National Planning Policy Framework (the Framework). Together these policies require new development to show a clear understanding of the form and **character of the district's built and natural environment and to conserve and enhance distinctive elements of landscape character.**

Other Matters

19. Concerns have been raised regarding drainage for the site with residents drawing my attention to existing surface water problems in the village. Nevertheless, the Lead Local Flood Authority (LLFA) does not object to the proposal and I have no substantive evidence before me to suggest that I should take an alternative view. Therefore, subject to a suitable condition, I have no reason to believe that surface and foul water drainage could not be adequately dealt with.
20. Objectors raise concern with the design and scale of the proposed dwelling and its positioning within the plot. It has also been stated that the proposal would overlook and overshadow neighbouring residents. However, the appearance, layout and scale of the dwelling are all matters which are reserved for future consideration. Only the principle of developing the site for housing is under consideration at this stage. Having considered the size of the site and its relationship with adjacent properties, I see no reason why a single dwelling designed to a high standard could not sit comfortably within the plot without causing significant harm to neighbouring occupiers. These details can be dealt with at the reserved matters stage.
21. Objectors are also concerned that the appellant will seek to develop more than one dwelling on the site and develop the adjacent land for housing. However, the proposal is for a single dwelling and I have considered it on that basis. I have imposed a condition restricting development to one dwelling in the interests of the character and appearance of the area. Any development beyond the site would be subject to a further application and considered on its own merits.
22. I accept that the highway adjacent to the site is narrow with no pavements or streetlighting, yet the proposal will not result in a significant increase in vehicle or pedestrian movements. The site already includes an access directly from the public highway and there is no objection from the Local Highway Authority. While access to the site is a reserved matter, there is nothing before me to suggest that a suitable and safe access could not be achieved. Furthermore, any disruption caused by construction vehicles would be short-term and, given that only one property is to be erected, would likely be limited and adequately mitigated by careful and considerate construction management.
23. Services and amenities in the village are very limited, yet the village is identified **within the Council's** settlement hierarchy (ELP Policy LS1) as a location where development of an appropriate scale is permitted. The Framework also advises that housing development in one village may support services in a village nearby.

24. A Unilateral Planning Obligation (UPO) has been submitted in support of the appeal to commit the site to being developed as a self-build project. However, given my findings on the main issues, this has not affected my decision.

Conditions

25. I have had regard to the conditions suggested by both the Council and the appellant and have considered these against the Framework and Planning Practice Guidance.
26. The appellant has suggested conditions in relation to site levels, landscaping, highways and parking, materials and the positioning of windows. However, as the proposal is in outline with all matters reserved, it is not necessary or reasonable to attach conditions relating to the reserved matters. Instead the correct approach is for such issues to be resolved at the reserved matters stage, and for appropriate conditions to be applied at that stage if necessary.
27. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. I have also limited the number of pre-commencement clauses to those cases where this is essential for the condition to achieve its purpose. In such circumstances, and in accordance with the regulations³, the appellant has been consulted over the wording of the condition and has provided their written agreement.
28. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans as this provides certainty. In order to protect the character and appearance of the surrounding area I have included conditions to restrict the development to that of a single dwelling and for the submission of, and adherence to, measures to protect the existing hedgerow and trees.
29. To comply with the requirements of ELP policy HS2 I have attached conditions to restrict the gross internal floorspace of the dwelling and to limit its occupation in **line with the Council's local** occupancy criteria. Finally, I have included a condition relating to drainage details to ensure that surface and foul water are appropriately dealt with.

Conclusion

30. I have found that the appeal site is a suitable location for residential development, having regard to the local development strategy for the area. As a modest extension of the existing settlement that would suitably round it off to a logical point, I have not found the proposal to be harmful in any way to the character and appearance of the area, or that of the surrounding landscape.
31. I therefore conclude that, subject to the conditions set out in the attached schedule, the appeal is allowed.

J M Tweddle

INSPECTOR

³ The Town & Country Planning (Pre-commencement Conditions) Regulations 2018

Schedule of Conditions

- 1) Details of the layout, scale, appearance, access and landscaping **(hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.**
- 2) Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved documents and plans: Application Form (Dated 21 March 2019), Location Plan (Drawing No 00233/01), Site Plan (Drawing No 00233/Site Plan) & Block Plan (Drawing No 00233/02).
- 5) The development shall comprise one dwelling only.
- 6) No development hereby permitted shall commence until tree and hedgerow protection measures have been put in place in accordance with details submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall be retained for the duration of the construction phase of the development.
- 7) The hereby approved dwelling shall have a maximum gross internal floor area of 150sqm.
- 8) No building hereby permitted shall be occupied until a scheme for foul and surface water drainage has been implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Before any details are submitted to the Local Planning Authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent replacement standards), and the results of the assessment shall have been provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and,
 - Include a timetable for its implementation; and,
 - Confirm that no surface water shall discharge into the public sewerage system either directly or indirectly.
- 9) The occupation of the dwelling shall be limited to a person with a local connection to the locality, or a widow or widower of such a person, or any resident dependants. Locality refers to the parish and surrounding parishes in the first instance. If a property has been actively marketed for at least 6 months and an occupier cannot be found then the definition of locality will

be extended out to include the County of Cumbria. A person with a local connection means a person who meets one of the following criteria:

- The person lives in the locality and has done for a continuous period of at least three years
- The person works permanently in the locality for a minimum of 16 hours per week. Where a person is employed in an established business that operates in multiple locations, their employment activities should take place predominantly inside the locality.
- The person has a firm offer of permanent employment, for a minimum of 16 hours per week in an already established business within the locality.
- The person has moved away but has a strong established and continuous links with the locality by reason of birth or long term immediate family connections.
- The person needs to live in the locality because they need substantial care from a relative who has lived in the locality for at least three years, or needs to provide substantial care to a relative who has lived in the locality at least three years. Substantial care means that identified as required by a medical doctor or relevant statutory support agency.